

CLAY COUNTY BOARD OF COMMISSIONERS

Tuesday, July 7, 2015

8:30 a.m.

County Board Room – 3<sup>rd</sup> Floor – Courthouse

MINUTES

The Clay County Board of Commissioners met in regular session with all Commissioners present: Campbell, Gross, Ingersoll, Mongeau, and Weyland. County Administrator Brian C. Berg, Chief Assistant County Attorney Jenny Samarzja, and Senior Administrative Assistant Vicki Reek were also present.

APPROVAL OF AGENDA

On motion by Campbell, seconded by Gross, and unanimously carried, the agenda was approved with the following addition: Request for approval of unpaid leave for Social Services employee.

FAMILY SERVICE CENTER LEASE RENEWAL

By consent agenda, the Board approved renewal of Department of Human Services lease No. 11927, Amendment #2, in the Family Service Center for the period 7/1/15-6/30/16 @ \$12.05 sq.ft. and 7/1/16-6/30/17 @ \$12.55 sq.ft. (Suite 305b, 175 sq.ft.; Suite 310, 224 sq.ft.; Suite 305a, 162 sq.ft.; and Suite 307, 211 sq.ft.).

APPROVAL OF EXEMPT PERMIT, WESTERN MN STEAM THRESHERS REUNION

By consent agenda, the Board approved an exempt permit for the Western MN Steam Threshers Reunion for a raffle in 2016.

APPROVAL OF STATEWIDE HEALTH IMPROVEMENT GRANT FUNDING FOR VARIOUS PROGRAMS

By consent agenda, the Board approved Statewide Health Improvement Grant funding (SHIP) for Lost & Found Ministries Strategy Funding for community partner assessment meeting; MN National Guard Armory Lease for a workshop; Vergas Farmer's Market Strategy Funding for community partner assessment meeting; and Rothsay Public Schools Community Partner Workshop.

AGREEMENT TO PROVIDE NURSE CONSULTANT SERVICE TO TRINITY LUTHERAN CHURCH PRESCHOOL

By consent agenda, the Board approved an agreement for Clay County Public Health to provide nurse consultant services to Trinity Lutheran Church Preschool.

RENEWAL OF AGREEMENTS TO PROVIDE SCHOOL NURSING SERVICES FOR 2015-2016 TO DGF, HAWLEY, AND ULEN-HITTERDAL SCHOOL DISTRICTS

By consent agenda, the Board approved renewal of agreements to provide School Nursing Services for 2015-2016 to Dilworth-Glyndon-Felton School District; Hawley School District; and Ulen-Hitterdal School District.



#### ADOPT RESOLUTION FOR ENVIRONMENTAL HEALTH SERVICE PROGRAM FEES

By consent agenda, the Board adopted Resolution 2015-21 (Attachment "A"), establishing the Environmental Health Services Program fees effective January 1, 2015, as recommended by the Clay-Wilkin Community Health Board.

#### EMPLOYEE RECOGNITION

The following employees were recognized for their years of service to Clay County: Craig Reno, Correctional Officer, Sheriff's Office, 15 years; Lt. Bryan Green, Deputy/Emergency Manager, Sheriff's Office, 20 years; Kurt Fischer, Motor Grader Operator, Highway, 25 years; Sue Olson, Registered Dietician, WIC, Public Health, 25 years; Marsha Naastad, Case Aide, Social Services, 30 years.

#### CITIZENS TO BE HEARD

There were no citizens present who wished to address the Board.

#### APPROVAL OF MINUTES OF JUNE 16 & 23, 2015

On motion by Gross, seconded by Mongeau, and unanimously carried, the minutes of the meetings held June 16 & 23, 2015 were approved as presented.

#### APPROVE PAYMENT OF BILLS AND VOUCHERS

On motion by Gross, seconded by Ingersoll, and unanimously carried, the bills and vouchers were approved for payment.

#### REVIEW UPDATED CLAY COUNTY EMERGENCY OPERATIONS PLAN

Lt. Bryan Green, Clay County Emergency Manager, presented the Board members with draft copies of the updated Clay County Emergency Operations Plan for their review over the next few weeks. Lt. Green explained that a four-year review cycle has been adopted by FEMA and Minnesota Homeland Security Emergency Management (MNHSEM), as follows:

- Year 1 - Review and adopt, execute by County Board
- Year 2 - Review by Regional Peer's Committee
- Year 3 - Review by MNHSEM
- Year 4 - Review by MNHSEM regional program coordinator

Clay County is in Year 1, requiring review and adoption by the County Board. A resolution adopting the Emergency Operation Plan will be presented at a later date.

#### REQUEST TO FILL FULL TIME CORRECTIONS OFFICER VACANCY

On motion by Ingersoll, seconded by Mongeau, and unanimously carried, the Board approved filling a full time Corrections Officer vacancy, which is a mandated position included in the Department of Corrections' staffing plan.

#### APPROVAL OF LANDFILL LOCATION STIPEND TO HAWLEY TOWNSHIP

Solid Waste Manager Kirk Rosenberger informed the Board that the Solid Waste Advisory Committee has recommended a stipend of \$5000/year be paid to Hawley Township for hosting landfill activities. The location of the landfill subjects Hawley



Township to increased truck traffic, occasional odor, litter and other nuisances. 25% of the stipend must be used for waste reduction activities, with the remaining amount to be used as the Township sees fit.

On motion by Campbell, seconded by Ingersoll, and unanimously carried, the Board approved payment of a stipend of \$5000/year to Hawley Township for landfill location to be paid from the Solid Waste fund.

#### REQUEST TO HIRE 1 FTE SOCIAL WORKER FOR CHILD PROTECTION

Social Services Director Rhonda Porter reminded the Board that in March the Board approved hiring 2.5 FTE Child Protection workers in anticipation of new legislation and accompanying funding. She reported that due to the new legislation, Clay County will receive \$205,600 in July, and another \$51,400 if specific performance measures are met. However, per the legislation, counties cannot use the funds to supplant expenditures for previous hires. Ms. Porter requested authorization to hire 1 FTE Social Worker for Child Protection to help manage the caseload.

On motion by Ingersoll, seconded by Mongeau, and unanimously carried, the Board approved hiring 1.0 FTE Social Worker for Child Protection, and to backfill the position if hired from within.

#### APPROVAL OF UNPAID LEAVE FOR SOCIAL SERVICES EMPLOYEE

On motion by Mongeau, seconded by Campbell, and unanimously carried, the Board approved unpaid leave of absence for 6.4 weeks for a Social Services employee with a medical condition. The employee is not eligible for FMLA or sick leave transfer, and has exhausted all vacation and sick leave. The Personnel Policy states that unpaid leaves of absence shall not be longer than 4 calendar weeks and requests which exceed this shall require County Board approval.

#### PUBLIC HEARING: BRB, LLC REQUEST FOR REZONING

On motion by Campbell, seconded by Gross, and unanimously carried, the Public Hearing was opened concerning BRB, LLC's request for rezoning of a 7.66 acre parcel to remove the Urban Expansion District (UED) overlay (See Attachment "B").

Chief Assistant County Attorney Jenny Samarzja informed the Board that the hearing concerns a zoning district amendment, pursuant to the Clay County Code 8.4.6. This Public Hearing is a result of a recommendation from the Planning Commission which needs final approval by the Clay County Board. The Planning Commission did hear this matter and made a recommendation to the County Board previously, but the change of the zoning district to grant the application does require a public hearing. It is brought back for public hearing today so any decision the County Board makes is done correctly.

Ms. Samarzja related the history of the parcel which is relevant to her recommendation. It is a 7.66 acre parcel on 46<sup>th</sup> Avenue South. In 1992 this property was zoned Ag Preservation. In 2005 the Urban Expansion District overlay was added. In 1992, Moorhead Township requested that Clay County rezone parcels south of the subject parcel to Highway Commercial which the Township had also zoned Highway Commercial. The properties they requested to be re-zoned were just south of the subject property, but did not include the subject property. In 1992 the Planning Commission held the appropriate public hearing and brought the recommendation to the County Board to change the parcels



from Ag Preservation to Highway Commercial to be in line with Township zoning. This Board did change the zoning. No change was made to the subject parcel.

After 2005 the County's zoning map changed to not only include Moorhead Township's property as Highway Commercial, but the parcel in question as well, even though no Board action had taken place to do so. Mr. Magnusson describes it in his memo as a 'mapping error' and he has reviewed how this may have happened, but we do not know. At the time the applicant approached the Planning Department to learn what they needed to do with reference to the property, the map they were shown or discussed included the subject property as Highway Commercial, and it was represented to them (applicant and Planning Commission) as Highway Commercial. However, if we go back to the applicant's application to the Planning Commission for zoning change, their application states they are requesting a zoning change from Agricultural to Highway Commercial with removal of the Urban Expansion District overlay. The application actually is correct as to what exists there for zoning. What was presented to the Planning Commission was in error. The Planning Commission only decided on the removal or non-removal of the overlay. No discussion or consideration was given to them as to whether or not the zoning should be changed from Agricultural to Highway Commercial. It was presented to them as already being Highway Commercial when it legally was not. With that presentation to the Planning Commission and discussion of all the criteria the Planning Commission is to use to grant the application, the Planning Commission did vote to deny the application with two nay votes. That recommendation came to the County Board in May. For today's consideration, the Board does have to make a decision within 60 days after the Planning Commission's recommendation, which was made May 12. A decision must be made today whether to deny or grant the application for removal of the Urban Expansion District overlay zone. Approval by this Board requires 4/5ths vote. If there is a denial by this Board, the statute indicates that there can be no resubmission of the request for one year. If this issue were to be reviewed by Appellate Court, the Appellate Courts are to give great deference to a zoning decision made by a County Board, and on review the Appellate Court will uphold the decision if the Board has reasonable articulated justification for its decision. This Board is given great deference in the facts and the analysis it does.

Ms. Samarzja stated that the underlying zoning was never dealt with by the Planning Commission, nor has a recommendation on that zoning been made to the County Board.

Commissioner Campbell stated his concerns with the zoning not being properly done, and the fairness factor to the applicant if the County Board denies the request and the applicant cannot reapply for a year to remove the Urban Expansion District overlay. He felt the zoning issue needs to be addressed through the proper process.

Ms. Samarzja stated that the recommendation given by the Planning Commission to the County Board was on the single issue of whether or not to remove the UED overlay. She felt the Board needs to make the decision today whether or not to remove the UED overlay. However, just removing the UED overlay is not going to allow the applicant to accomplish what they have proposed to accomplish. If they continue to move forward with their project they will need to go back to the Planning Commission and the Planning Commission will need to hear their request to change from Agricultural Preservation to Highway Commercial as a separate request. Ms. Samarzja did not believe the one year resubmission rule will apply because that issue was never heard before the Planning Commission and a recommendation was never made. She felt that solves the fairness issue as well. There



would need to be another Planning Commission hearing, a decision by the Planning Commission, a recommendation to the County Board, and a decision on that issue by the County Board. Whatever the County Board does today will not completely resolve the issue at hand. Today's decision is whether or not to remove the Urban Expansion District overlay.

Planning Director Tim Magnusson stated that one of the issues relevant to this request going before the Planning Commission, was that when an inquiry came to the Planning Office, the property was represented as what the map depicted. He stated he had received an inquiry from a realtor about the three parcels there, one of which had a house on it, and had informed the realtor it was Highway Commercial. The realtor commented that a mortgage would never be approved for the house if it was in a Highway Commercial zone. Mr. Magnusson reviewed the files and found the 1992 process that had been gone through with Moorhead Township and it did not include the three parcels on the north end as Highway Commercial. He spoke with Ms. Samarzja and informed her he had represented the parcels as Highway Commercial. She stated that if we had represented them as Highway Commercial, then we need to be looking at them as Highway Commercial. That is why it came to the Planning Commission that way. We made the assumption it had been represented that way, and we took Highway Commercial as being the underlying zoning district, not the Ag General district which Mr. Magnusson thinks it really is. That's why we only made a review of the Overlay District. Because it had been represented as Highway Commercial, the assumption was made that all we had to do was remove the Overlay District and it was considered Highway Commercial. That is how the Planning Commission heard it and the recommendation came to the County Board the way it did. The proposal for three buildings for rental storage was made to the Planning Commission, using 1/3 of the parcel. When the Planning Commission reviewed the request, the City of Moorhead's Extraterritorial and Future Land Use Plan were reviewed. In their Future Land Use Plan, the City of Moorhead has designated this area as residential. The recommendation from the Planning Commission was for denial of the removal of the UED because it didn't fit the County's Comprehensive plan provisions. The Planning Commission is also to give deference to the City of Moorhead's future growth areas and other area plans. The Planning Commission denied the request to remove the UED overlay (with two nay votes) based on the above factors.

Ms. Samarzja clarified that the County Board did vote to remove the UED overlay in May, however the Ordinance requires a public hearing to be held to allow everyone who wants to be heard has an opportunity to do so.

Commissioner Mongeau commented that the County Board has heard criticism that they are not following the City of Moorhead's future land use map. She stated that most of the parcels along Highway 75 are zoned Highway Commercial, but Moorhead has them zoned low, medium, and high-density residential. She felt continued confusion and conflict will occur if the County allows commercial development along the Highway 75 corridor and the City has the area planned for residential.

Mr. Magnusson clarified that the area is zoned Highway Commercial, but it has the Urban Expansion district overlay on it, which negates the Highway Commercial possibilities. That is why the applicant made the request to remove the UED overlay, to broaden the ability to utilize the property in a commercial way.



Commissioner Mongeau felt there are too many assumptions being made about what the property is zoned and what it should be zoned. She was concerned that this situation may occur around the entire border of Moorhead. Mr. Magnusson stated that the overlay does extend a mile or even more around the community.

John Shockley, City of Moorhead Attorney, was present to request denial of the rezoning and to keep the urban expansion district in place. He referenced his letter to the County Board dated July 2, 2015, concerning Spot Zoning, Violation of UED Goals, and Inconsistent Uses (See Attachment "C").

Ms. Samarzja reiterated that the County Board is voting only on the zoning as it pertains to the Urban Expansion Overlay District.

Commissioner Gross inquired if residences could be built on the subject property. Mr. Magnusson replied that one residence could be built there because it is zoned Agricultural, and would have to have its own water and septic. The City of Moorhead has jurisdiction if the applicant wanted to develop a subdivision or split the property.

Commissioner Mongeau inquired if a motor fuel station could be built on the property. Ms. Samarzja stated that the property is zoned Agricultural General and removing or not removing the Overlay District will not allow the applicants to build what they have proposed or any of the uses listed in Mr. Shockley's letter.

Ms. Samarzja stated her legal opinion to the Board is that the property is currently zoned Ag General, as nothing has taken place to officially change that, other than a mapping error. She stated the applicant could choose to go back to the Planning Commission for rezoning from Ag to Highway Commercial.

City of Moorhead Mayor Del Rae Williams addressed the Board and expressed appreciation for the cooperation between the City and the County. She felt future planning is very important to building strong neighborhoods. She felt residences west of Highway 75 have been built on the assumption that neighboring properties would be residential as well. She has visited with the owner of property to the east of the subject property and the owner is planning a residential subdivision for that area.

Moorhead City Councilman Mike Hulett, who represents Ward 3, has visited with constituents who have been under the belief that the east side of Highway 75 would be a mirror image of what is on the west side. He felt the County Board should maintain the Urban Expansion District overlay.

Brent Strand, BRB, LLC, reiterated that BRB, LLC's proposal is for storage units only, not any of the other uses mentioned in Mr. Shockley's letter. He stated the appearance will be aesthetically pleasing, and will be an asset to the area. He stated that they will build a retention pond on the property for stormwater runoff if necessary. He noted that it is impossible to mirror on the east side of 75 what is on the west side due to the commercial entities that exist already. Mr. Strand stated that the offer to purchase the property was based on information received from the Planning Office that the property was zoned Highway Commercial. City officials have informed him that annexation is not yet possible for this property.

Ben Woodside addressed the Board and felt the proposed storage units will be an asset to the community and neighborhood.

Ms. Samarzja disagreed with Mr. Shockley's assertion that removing the UED would be 'spot zoning'. She reiterated the Clay County Code criteria used by the Planning Commission to make their recommendation to deny the request to remove the Urban



Expansion District overlay: (Title 8, Chapter 4, Section 8-4-6D: Criteria and General Review Standards): 1. Effect of Proposed Use; 2.a. Burden on Public Utilities; 2.b. Related to overall needs; 2.c. Consistency with Ordinance; 2.d. Conflict with Comprehensive Plan; 2.e. Prematurely Stimulate Public Investment in Utilities. She added that the 60 day time limit prevents further review after today.

Commissioner Ingersoll inquired what the next issue would be for the applicant if the Board decided not to remove the UED. Ms. Samarzja stated that the applicant could not seek to have the overlay district removed for one year. The removal of the overlay district would be required before the storage facilities could be built.

Mr. Strand commented that it was through no fault of theirs that the request was not presented properly to the Planning Commission and now they will pay the price.

Commissioner Mongeau felt too much confusion surrounds this issue, with the mapping errors, and it is unfortunate that the developer has to suffer the consequences. She stated her vote will be to remove the overlay because, 1) the lack of clarification caused the confusion, and 2) denying the request will bind the developers hands for a year. She felt voting to remove the overlay is not a vote to put shovels in the ground to build the storage units tomorrow, and there is a long process that will need to happen.

Commissioner Ingersoll stated he will reverse his vote from last time and vote to deny the request to remove the UED overlay. He felt there have been too many confusing issues raised.

Commissioner Campbell stated that his vote in May to remove the overlay was based on the information presented at that time that the property was already zoned Highway Commercial, and it is not. He agreed that this is difficult for the applicant in that financial decisions were made based on the information that was presented.

Commissioner Gross commented that Moorhead's proposed zoning for the area is residential. He wondered if the back side of fences is the best view when entering the City of Moorhead. He felt it may be good to see commercial along Highway 75.

Commissioner Campbell noted that there are very nice storage facilities in Moorhead, which are surrounded by residential areas. He was frustrated that the mapping error occurred.

On motion by Ingersoll, seconded by Campbell, and unanimously carried, the public hearing closed at 10:29 a.m.

Commissioner Mongeau moved to remove the Urban Expansion District Overlay, with the request that the applicant go back to the Planning Commission with the correct requirements for zoning. Commissioner Gross seconded the motion which failed with Commissioners Campbell, Ingersoll, and Weyland voting no. The Urban Expansion district Overlay will remain in place for the 7.66 acre parcel described above.

#### COMMITTEE REPORTS/COUNTY ADMINISTRATOR UPDATE

Commissioner Ingersoll attended meetings of Lakes & Prairies Community Action Partnership and Clay County Collaborative.

Commissioner Gross attended the FM Council of Governments/Hawley Transportation Plan meeting, retirement events, and Family Healthcare meeting.

Commissioner Campbell attended meetings of the Correctional Facility, Solid Waste Advisory Committee, and Prairie Lakes Municipal Solid Waste Authority.



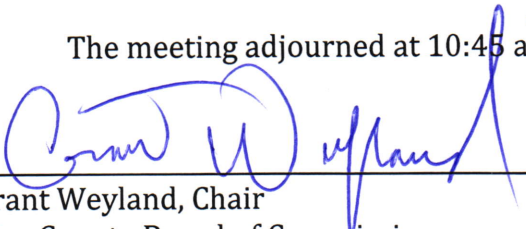
Commissioner Weyland attended meetings of the Correctional Facility, Prairie Lakes Municipal Solid Waste Authority, and Land of the Dancing Sky Area Agency on Aging.

Commissioner Mongeau attended meetings of the Solid Waste Advisory Committee, Historical & Cultural Society, and a Highway retirement event. She added that the Clay County Fair is this week.

County Administrator Brian Berg reported on meetings of the FM Diversion, recycling efforts, evaluations, Drug Court, Solid Waste Authority, Correctional Facility, property acquisition.

ADJOURN

The meeting adjourned at 10:45 a.m.



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Grant Weyland, Chair  
Clay County Board of Commissioners



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Brian C. Berg, County Administrator



RESOLUTION NO. 2015-21RESOLUTION OF THE CLAY COUNTY BOARD ESTABLISHING ENVIRONMENTAL  
HEALTH SERVICES PROGRAM FEES

**WHEREAS**, the Clay Wilkin Community Health Board (CHB) held a noticed public hearing and considered oral and written presentations regarding Environmental Health Program Services fees enforceable within the jurisdiction; and

**WHEREAS**, the Clay County Board hereby determines that the fees adopted herein shall apply to all applicable license applications and/or renewals to be effective on January 1<sup>st</sup>, 2015; and

**WHEREAS**, the Clay County Board hereby determines that the fees described herein are appropriate for the sustainability and required operations of the Environmental Health Services Program; and

**WHEREAS**, described fees apply to regulated services as defined in MN Statute 157.15 within the jurisdiction includes but not limited to food service operations and retail food establishments, beverage services, Special event food stands, seasonal temporary food stands, seasonal permanent food stands, mobile food units, public swimming pools, public spas, special use pools, school food services and pools, recreational camping areas, special event camping areas, mobile home parks, lodging establishments, hotels/motels, resorts, youth camps, non-community water supplies, public on-site sewers, plan reviews, and applicable variance, late fees, and enforcement penalties; and

**WHEREAS**, one (1) base fee shall be applied and charged per license certificate issued as described in MN Chapter 157.16 subd.1; and

**WHEREAS**, if an approved establishment begins operation in the last quarter of a licensing year, the license fee due shall be prorated to one half of the annual license fee for that year; and

**WHEREAS**, if there is a change of ownership of a currently licensed establishment in good standing within the licensing year, the license fee due shall be prorated to one half of the annual license fee for that year; and

**WHEREAS**, the prorated rates described herein shall not be applicable to any outstanding or applied enforcement fees, administrative fees, plan review fees, or late fees assessed to the establishment; and

**NOW, THEREFORE, BE IT RESOLVED**, by the Clay County Board, that the annual County Rate license fees for the following services be as stated:

**Food and Beverage Program**

Program Element	Name of Fee	Annual State Rates	Annual County Rates
FB-1	Base Fee	\$150	\$150
FB-2	Limited Food Menu	\$60	\$60
FB-3	Small Establishment	\$120	\$120
FB-4	Medium Establishment	\$310	\$310
FB-5	Large Establishment	\$540	\$540
FB-6	Special Event –No Base	\$50	\$50



FB-7	Small Menu B & B	\$120	\$120
FB-8	Small Menu Boarding	\$120	\$120
FB-9	Food Cart	\$60	\$60
FB-10	Mobile Food Unit	\$60	\$60
FB-11	Seasonal Permanent	\$60	\$60
FB-12	Seasonal Temporary	\$60	\$60
FB-13	Beer or Wine Table Service	\$60	\$60
FB-14	Alcohol Service from Bar	\$165	\$165
FB-15	Late Fee up to 30 days	\$120	\$120
FB-16	Late Fee > 30 days	\$360	\$360
FB-17	Mobile Food Unit Late Fee	\$60	\$60
FB-18	Individual Water or Sewer*	\$60	\$60
FB-19	Late Fee for Food Cart, Seasonal Temp Stand, Seasonal Perm. Stand, or Special Event	\$60	\$60
FB-20	Re-Inspection Fee	N/A	\$75

**\*only one individual water or individual sewer fee is applied per licensed establishment**

#### **Schools**

Program Element	Name of Fee	State Rates	County Rates
SC-1	Base Fee	\$150	\$150
SC-2	Limited Food Menu	\$60	\$60
SC-3	Small Establishment	\$120	\$120
SC-4	Medium Establishment	\$310	\$310
SC-5	Large Establishment	\$540	\$540
SC-6	Additional Inspection Fee	\$360	\$360
SC-7	Late Fee up to 30 days	\$120	\$120
SC-8	Late Fee > 30 days	\$360	\$360
SC-9	Re-Inspection Fee	N/A	\$75

#### **Mobile Home Parks**

Program Element	Name of Fee	State Rates	County Rates
MH-1	Base Fee	\$150	\$150
MH-2	Year Round	\$4 per site	\$4 per site
MH-3	Late Fee up to 30 days	\$120	\$120
MH-4	Late Fee > 30 days	\$360	\$360
MH-5	Individual Water or Sewer*	\$60	\$60
MH-6	Re-Inspection Fee	N/A	\$75

**\*only one individual water or individual sewer fee is applied per licensed establishment**

#### **Recreational Campground**

Program Element	Name of Fee	State Rates	County Rates
RC-1	Base Fee 24 or Less Sites	\$50	\$50
RC-2	Base Fee 25-99 Sites	\$212	\$212



RC-3	Base Fee >99 Sites	\$300	\$300
RC-4	Seasonal (6 months or less)	\$4 per site	\$4 per site
RC-5	Late Fee up to 30 days	\$120	\$120
RC-6	Late Fee > 30 days	\$360	\$360
RC-7	Special Event Camp Base Fee	\$150	\$150
RC-8	Special Event Camp Site Fee	\$1 each site	\$1 each site
RC-9	Individual Water or Sewer*	\$60	\$60
RC-10	Late Fee Special Event Camping	\$360	\$360
RC-11	Re-Inspection Fee	N/A	\$75

**\*only one individual water or individual sewer fee is applied per licensed establishment**

#### **Youth Camp**

Program Element	Name of Fee	State Rates	County Rates
YC-1	Up to 99 campers	\$325	\$325
YC-2	100-99 campers	\$550	\$550
YC-3	200 or more campers	\$750	\$750
YC-4	Individual Water or Sewer*	\$60	\$60
YC-5	Late Fee up to 30 days	\$120	\$120
YC-6	Late Fee > 30 days	\$360	\$360
YC-7	Re-Inspection Fee	N/A	\$75

**\*only one individual water or individual sewer fee is applied per licensed establishment**

#### **Lodging (Max \$1000)**

Program Element	Name of Fee	State Rates	County Rates
LG-1	Lodging Base Fee	\$150	\$150
LG-2	Number of Units x Rate	\$10/unit	\$10/unit
LG-3	Individual Water or Sewer*	\$60	\$60
LG-4	Late Fee up to 30 days	\$120	\$120
LG-5	Late Fee > 30 days	\$360	\$360
LG-6	Re-Inspection Fee	N/A	\$75

**\*only one individual water or individual sewer fee is applied per licensed establishment**

#### **Swimming Pools and Spas**

Program Element	Name of Fee	State Rates	County Rates
SP-1	Base Fee for standalone pools	\$150	\$150
SP-2	Public Swimming Pools	\$325	\$325
SP-3	Each Additional Pool	\$175	\$175
SP-4	Spa Pool	\$175	\$175
SP-5	Each Additional Spa	\$100	\$100
SP-6	Late Fee up to 30 days	\$120	\$120
SP-7	Late Fee > 30 days	\$360	\$360
SP-8	Individual Water or Sewer*	\$60	\$60
SP-9	Re-Inspection Fee	N/A	\$75



**NOW, THEREFORE, BE IT RESOLVED**, by the Clay County Board, that the County Rate plan review application fees for the following services be as stated:

**Plan Review Program – New Construction**

<b>Program Element</b>	<b>Name of Fee</b>	<b>State Rates</b>	<b>County Rates</b>
PR-1	Limited Food Menu	\$275	\$275
PR-2	Small Establishment	\$400	\$400
PR-3	Medium Establishment	\$450	\$450
PR-4	Large Establishment	\$500	\$500
PR-5	Additional Food Service	\$150/service	\$150/service
PR-6	Beer or Wine Table Service	\$150	\$150
PR-7	Alcohol Service from Bar	\$250	\$250
PR-8	Lodging < 25 Rooms	\$375	\$375
PR-9	Lodging 25 to 99 Rooms	\$400	\$400
PR-10	Lodging 100 Rooms or More	\$500	\$500
PR-11	Lodging 1 to 4 Cabins	\$350	\$350
PR-12	Lodging 5 to 9 Cabins	\$400	\$400
PR-13	Lodging 10 Cabins or More	\$450	\$450
	<b>MHP/RCA/SECA Plan Review</b>		
PR-14	Less than 25 sites	\$375	\$375
PR-15	25 to 99 sites	\$400	\$400
PR-16	100 sites or more	\$500	\$500

**Plan Review Program – Remodel**

<b>Program Element</b>	<b>Name of Fee</b>	<b>State Rates</b>	<b>County Rates</b>
RR-1	Limited Food Menu	\$250	\$250
RR-2	Small Establishment	\$300	\$300
RR-3	Medium Establishment	\$350	\$350
RR-4	Large Establishment	\$400	\$400
RR-5	Additional Food Service	\$150/service	\$150/service
RR-6	Beer or Wine Table Service	\$150	\$150
RR-7	Alcohol Service from Bar	\$250	\$250
RR-8	Lodging < 25 Rooms	\$250	\$250
RR-9	Lodging 25 to 99 Rooms	\$300	\$300
RR-10	Lodging 100 Rooms or More	\$450	\$450
RR-11	Lodging 1 to 4 Cabins	\$250	\$250
RR-12	Lodging 5 to 9 Cabins	\$350	\$350
RR-13	Lodging 10 Cabins or More	\$400	\$400
	<b>MHP/RCA/SECA Plan Review</b>		
RR-14	Less than 25 sites	\$250	\$250
RR-15	25 to 99 sites	\$300	\$300
RR-16	100 sites or more	\$450	\$450



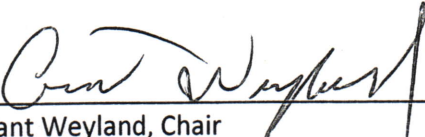
**NOW, THEREFORE, BE IT RESOLVED**, by the Clay County Board, that the County Rate variance application fee be as stated:

Program Element	Name of Fee	State Rates	County Rates
VF-1	Program Areas as allowed	N/A	\$150

**NOW, THEREFORE BE IT FURTHER RESOLVED**, that fees shall be submitted in full faith to the jurisdiction at the time of application submission; and

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, that the Clay County Board finds and determines that all formal actions relative to the passage of this resolution were taken in an open public meeting of this Board.

Adopted this 7 day of July, 2015

  
\_\_\_\_\_  
Grant Weyland, Chair  
Clay County Board of Commissioners

7/7/15  
Date

**CERTIFICATION**

I hereby certify that the above is a true and correct copy of a Resolution duly passed, adopted and approved by the County Board of Clay County on July 7, 2015.

  
\_\_\_\_\_  
Brian C. Berg, County Administrator  
Clay County, Minnesota

7/7/15  
Date




## PLANNING AND ENVIRONMENTAL PROGRAMS

TIM MAGNUSSON, Director  
KATHY MAHER, Coordinator

Office Telephone: (218) 299-5002  
Fax: (218) 299-5195

MEMORANDUM

DATE: July 2, 2015  
TO: Clay County Board of Commissioners  
FROM: Tim Magnusson, Clay County Planner   
RE: BRB, LLC REQUEST FOR REZONING

At your May 12, 2015 meeting a recommendation on a proposed zoning amendment was presented. That recommendation came from the Clay County Planning Commission.

At their April 21, 2015 meeting the Clay County Planning Commission heard a request from BRB, LLC to remove the Urban Expansion District overlay zone from a parcel. Once removed the parcel would have only the Highway Commercial zone and would be available for a variety of commercial uses. After much discussion and consideration of the request, both in favor and opposed, the Planning Commission made the following motion to recommend denial of the requested change:

*On motion by Mike Hulett, seconded by Jenny Mongeau, and carried with two nay votes (Amos Baer and David Heng), the Planning Commission recommended denying the petition from BRB, LLC to rezone a 7.66-acre parcel that is currently zoned Highway Commercial (HC) with an Urban Expansion District (UED) overlay zone. The request was to remove the UED overlay zone from the parcel. Said parcel fronts on 46th Avenue South, abutting the City of Moorhead, in the NW ¼ SE ¼ Section 29, Moorhead Twp. The recommendation was based on the following reason:*

*The proposed zoning change and use is contrary to the Clay County Comprehensive Plan and the City of Moorhead's 2009 Future Land Use Map (FLU) and Growth Area Plan (GAP).*

*Said recommendation will be forwarded to County Board for final action.*

The above recommendation was presented to you on May 12, 2015. The recommendation was not presented to you at a public hearing. After discussion and input from the applicant and other parties, the County Board to an action, contrary to the Planning Commission's recommendation, and moved to approve the removal of the Urban Expansion District from the property. Shortly after the meeting it was determined that in order to be official the action should have been brought forward in a public hearing. Since it was not, a public hearing, on the same issue, was scheduled for the July 7, 2015 County Board meeting. In accordance with provisions of the Clay County Development Code any action on an amendment or rezoning must pass with a 4/5 vote of the County Board.



The parcel proposed for rezoning is a 7.66 acre parcel located in the NW¼SE¼, Section 29, Moorhead Township. It is located on 46<sup>th</sup> Avenue South (see attached aerial photos) and abuts the Moorhead city limits on the northern property line. Adjacent properties are agricultural and residential in nature.

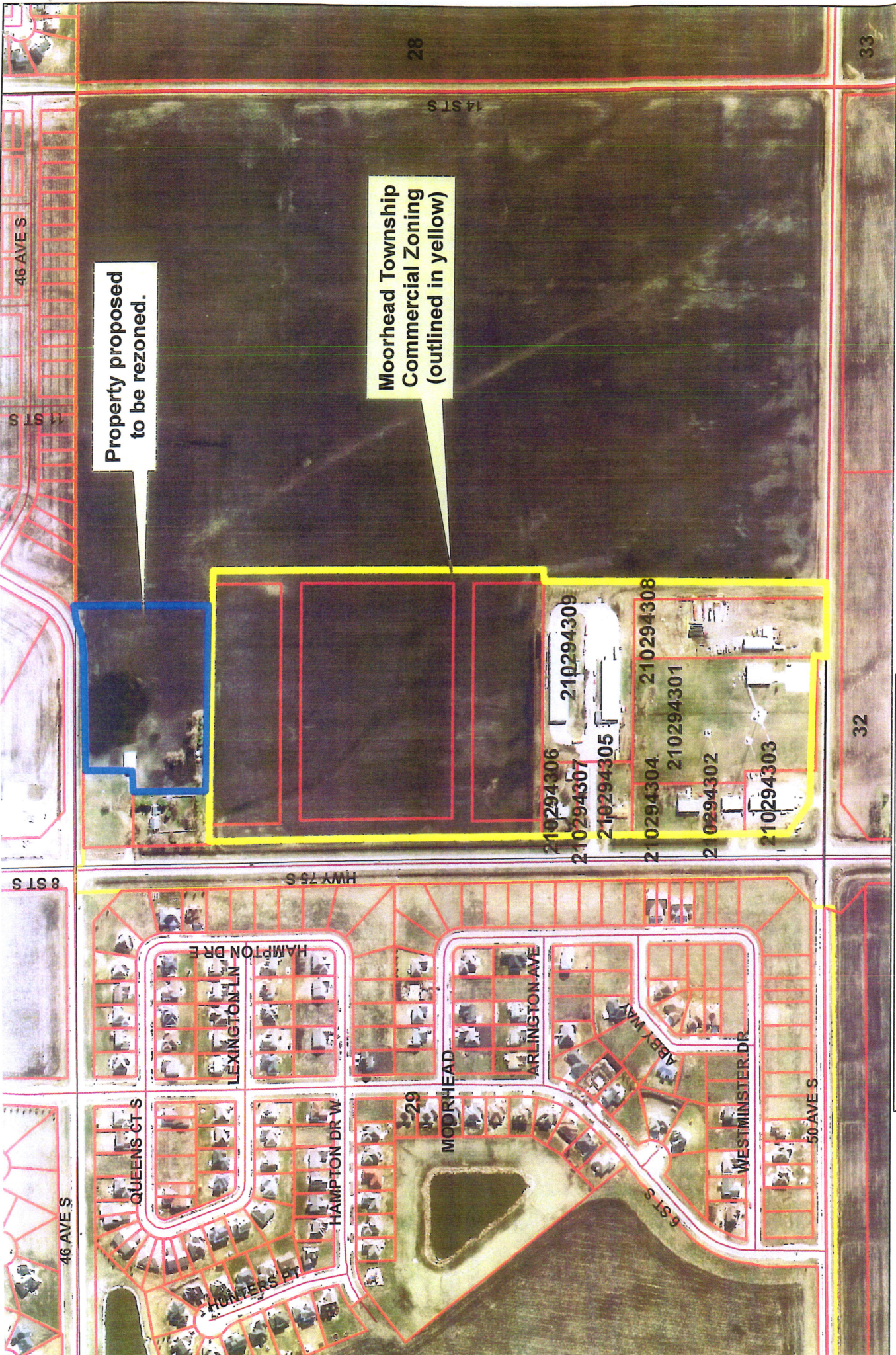
There is some question as to whether the property in question is actually zoned Highway Commercial. In 1992 Moorhead Township had all of the properties south of this property down to 50<sup>th</sup> Avenue zoned Highway Commercial. Clay County had the same properties zoned Agricultural Preservation. In 1992 the Township asked Clay County to rezone the same properties that they had zoned Highway Commercial to Highway Commercial under the County ordinance. The County Planning Commission held the appropriate public hearing and did recommend to the County Board to make the zoning change to Highway Commercial. After a public hearing at the County Board the Board moved to approve the change in zoning to Highway Commercial. The zoning change in 1992 did not include the property that is in question. The zoning map up until at least 2005 did not show this property as Highway Commercial.

Sometime after 2005 there appears to have been a change made to the zoning map that extended the County Highway Commercial Zoning district further north to 46<sup>th</sup> Avenue. This appears to be a mapping error because there was never any formal County action taken at the Planning Commission or County Board to enlarge the Highway Commercial zone. For this reason there is an uncertainty as to what the appropriate zoning for the parcel in question really is.

The rezoning application, Staff Report, minutes of the Planning Commission meeting, and aerial photos of the proposed site are attached for your review.

If you have any questions on this matter or the attached materials please contact Colleen or me at 299-5002. You could also contact me by email at: [tim.magnusson@co.clay.mn.us](mailto:tim.magnusson@co.clay.mn.us).

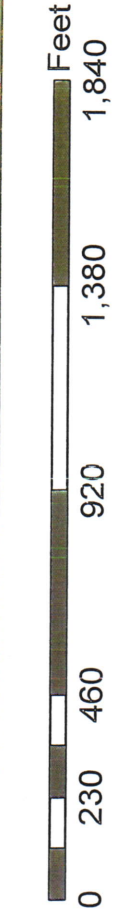




Property proposed to be rezoned.

Moorhead Township Commercial Zoning (outlined in yellow)

Map produced by:  
Clay County Planning & Environmental Programs  
807 N 11th Street  
Moorhead, MN 56560





**PLANNING AND ENVIRONMENTAL PROGRAMS**

TIM MAGNUSSON, Director  
KATHY MAHER, Coordinator  
Office Telephone: (218) 299-5002  
Fax: (218) 299-5195



**MEMORANDUM**

DATE: May 5, 2015  
TO: Clay County Board of Commissioners  
FROM: Tim Magnusson, Clay County Planner *TM*  
RE: BRB, LLC REQUEST FOR REZONING

At their April 21, 2015 meeting the Clay County Planning Commission heard a request from BRB, LLC to remove the Urban Expansion District overlay zone from a parcel. Once removed the parcel would have only the Highway Commercial zone and would be available for a variety of commercial uses. After much discussion and consideration of the request, both in favor and opposed, the Planning Commission made the following motion to recommend denial of the requested change:

*On motion by Mike Hulett, seconded by Jenny Mongeau, and carried with two nay votes (Amos Baer and David Heng), the Planning Commission recommended denying the petition from BRB, LLC to rezone a 7.66-acre parcel that is currently zoned Highway Commercial (HC) with an Urban Expansion District (UED) overlay zone. The request was to remove the UED overlay zone from the parcel. Said parcel fronts on 46th Avenue South, abutting the City of Moorhead, in the NW ¼ SE ¼ Section 29, Moorhead Twp. The recommendation was based on the following reason:*

*The proposed zoning change and use is contrary to the Clay County Comprehensive Plan and the City of Moorhead's 2009 Future Land Use Map (FLU) and Growth Area Plan (GAP).*

*Said recommendation will be forwarded to County Board for final action.*

Rezoning is actually an amendment to the Land Development Ordinance. The final authority for such decisions resides with the Clay County Board of Commissioners.

The parcel proposed for rezoning is a 7.66 acre parcel located in the NW¼SE¼, Section 29, Moorhead Township. It is located on 46<sup>th</sup> Avenue South (see attached aerial photos) and abuts the Moorhead city limits on the northern property line. Adjacent properties are agricultural and residential in nature. The rezoning application, Staff Report, minutes of the Planning Commission meeting, and aerial photos of the proposed site are attached for your review.

The Planning Commission respectfully requests that after you have reviewed this issue and held your deliberations that you take a final action on the request.

If you have any questions on this matter or the attached materials please contact Colleen or me at 299-5002. You could also contact me by email at: [tim.magnusson@co.clay.mn.us](mailto:tim.magnusson@co.clay.mn.us).



## Petition for Rezoning

**Clay County Planning &  
Environmental Programs**  
807 11<sup>th</sup> Street North  
Moorhead, MN 56560  
Tel (218) 299-5002

MAR 27 2015

**Application Fee: \$125.00**

Owner BRB LLC Parcel # 21,029,4201

Mailing Address 2108 UNIVERSITY DR S STE 102 A Permit # \_\_\_\_\_

City FARGO Date Submitted 3/27/15

State, Zip ND, 58103 60 Days \_\_\_\_\_

Day Phone 218-686-7886 - Brent Strand. Fee \$ 125 - paid

Cell Phone 218-686-7886 Public Hearing Apr. 21<sup>st</sup>

Property Address 4532 75 HWY S

Subdivision MOORHEAD MN 56560 Twp 139 Rng 048 Section 29

Legal Description SECTION 29 TOWNSHIP 139 RANGE 048

BEGIN 75' E OF NW COR OF SE 4, S 481.50', E 800',  
N 481.50' E, W 800' TO BEG LESS 1A, LESS .13A & LESS .30A

Applicant		<input checked="" type="checkbox"/> Applicant Same as Owner
Name		
Address 1		
Address 2		
City		
State, Zip		
Day Phone		



1. Area of subject property (square feet or acres): 7.66 ACRES
2. Present Zoning: AG/URBAN EXPANSION Proposed Zoning: COMMERCIAL
3. Briefly describe the nature and expected effect of the new proposed rezoning: I WOULD LIKE TO BUILD 101 UNITS OF SINGLE STORY SELF-STORAGE WITH OFFICE TO OFFER LOCAL AREA STORAGE AND MOVING SERVICE.
4. What changes or conditions make passage of this rezoning necessary? GROWTH AND EXPANSION OF THIS AREA.
5. Other circumstances which justify this rezoning: \_\_\_\_\_
6. Attach sketch plan of site (existing/proposed buildings, wells, septic system, road/property setbacks, etc.)

To the best of my knowledge, I certify that the information provided on this application and accompanying documents is true and accurate.

Applicant signature: 

Date: 3/27/15

**Office Use Only**

**Planning Commission**

Fee paid: \_\_\_\_\_ Date paid: \_\_\_\_\_ Hearing date: \_\_\_\_\_

Final approval is: ☐ Granted ☐ Denied for the following reasons: \_\_\_\_\_

X \_\_\_\_\_ Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Chairperson, Clay County Planning Commission

**Board of Commissioners**

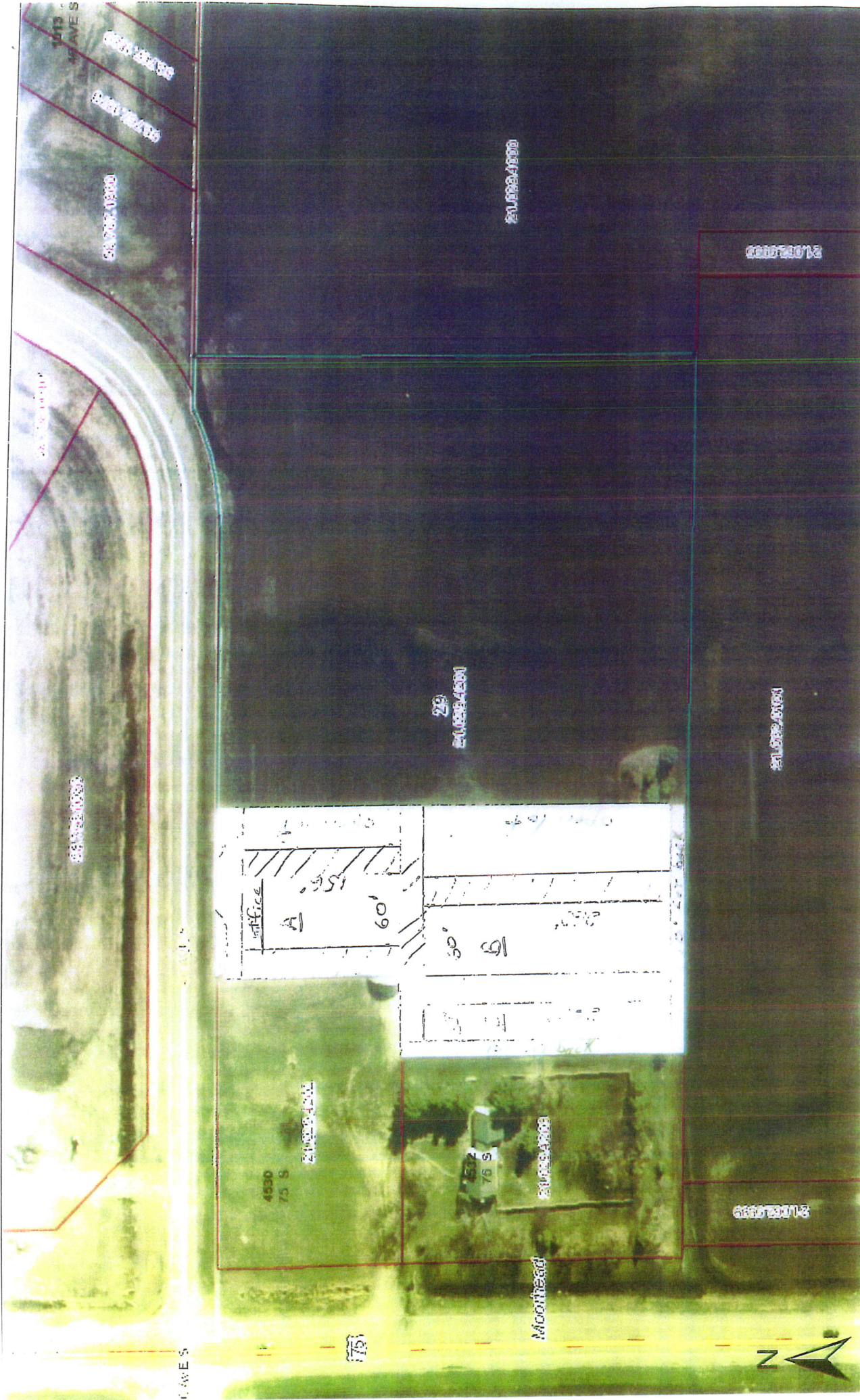
Meeting date: \_\_\_\_\_

Final approval is: ☐ Granted ☐ Denied for the following reasons: \_\_\_\_\_

X \_\_\_\_\_ Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Chairperson, Clay County Commission





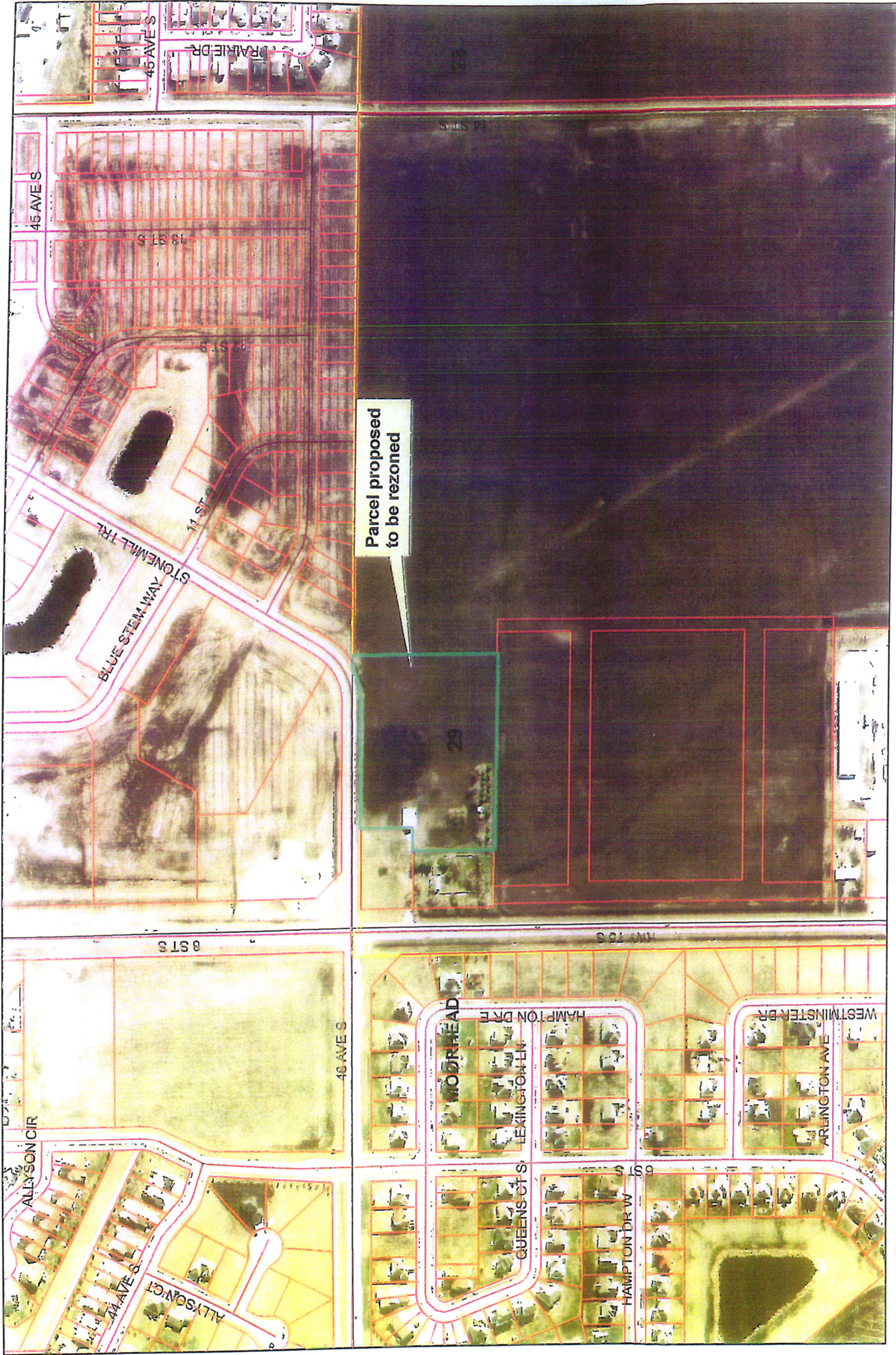
These data are provided on "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.

Key: 25' Wide Road paved  
 A- 156' x 60' 26 storage rooms 10' x 30' plus office  
 B. 260' x 60' 20 storage rooms 10' x 30'  
 C. 262' x 30' 25 storage rooms 10' x 30'

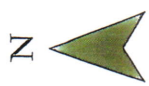
CLAYTON

Date: 3/25/2015





Parcel proposed  
to be rezoned



Map produced by:  
Clay County Planning & Environmental Programs  
807 N 11th Street  
Moorhead, MN 56560



# Clay County Planning Commission Report

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To: Clay County Planning Commission

Prepared By: Tim Magnusson, Planning Director

Date: April 16, 2015

Subject: Request for Rezoning, Removal of Urban Expansion District Overlay

## GENERAL INFORMATION

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Applicant	BRB LLC, Brent Strand, Agent
Requested Action	Rezoning – removal of UED overlay zone
Purpose	Rezone – remove Urban Expansion District Overlay from parcel, leaving Highway Commercial zoning
Location	NW¼ and SE¼, Section 29, T139N R48W (Moorhead Twp), Clay County MN.
Parcel Size	Approx. 7.66 acres
Future Land Use Plan	Agricultural/Residential
Zoning	Highway Commercial (HC) & Urban Expansion District (UED)
Existing Land Use	Agricultural
Surrounding Land Use	Agricultural/Residential
File Date / Publication Date	Mar 27, 2015/Apr 6, 2015

## CONSIDERATION

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The applicant's request requires that the Clay County Planning Commission consider the following factor(s):  
Does the proposal meet the conditions of Section 8-4-6D found in Title 8 of the Clay County Code, which establishes the necessary review criteria to allow a change in a zoning district. (Attachment 1)

## SUGGESTED ACTION

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### Rezoning Request

Staff recommends denial of this request for the following reason:

- 1) The proposed zoning change and use is contrary to the Clay County Comprehensive Plan and the City of Moorhead 2009 Future Land Use Map (FLU) or Growth Area Plan (GAP)

## POLICY CONSIDERATIONS

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Comprehensive Plan – Page 5-3 of the Implementation Section of The Clay County Comprehensive Plan (see attachment) contains the following statement under Planned Growth Areas & Annexations:

*New commercial and industrial development should be consistent with the land use plan of the adjacent city as shown in Figures 4-3 thru 4-6 and/or in local comprehensive plans.*



# Clay County Planning Commission Report

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Zoning –The subject property and most adjacent properties in the County are zoned Agricultural General (AG) or Highway Commercial both with an Urban Expansion District overlay zone.

## PROPOSAL REVIEW

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### Lot Description/Location

The subject property is approximately 7.66 acres in the NW¼ and SE¼, Section 29, T139N R48W (Moorhead Twp), Clay County MN., Clay County MN.

### Structures/Use

The property has been used agricultural land. There are currently no structures located on the site.

## STAFF REVIEW

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### Zoning Change

Sections 8-4-6D of the Clay County Code establishes the criteria for consideration of this request for zoning change.

This request seeks to rezone or remove a zoning overlay district from approximately 8 acres of land. The underlying zoning district is Highway Commercial (HC), the overlay zone is Urban Expansion District (UED). The intent is to remove the UED zoning and leave the parcel with just a HC zone on it. This would allow the applicant to propose construction of a 101 unit commercial storage facility on the site. The proposed storage use would take up about 1/3 of the entire property (see attached drawing). It is my understanding that Moorhead Township has this property zoned Agricultural Preservation-1. That means Moorhead Township would have to rezone the property Highway Commercial before any type of commercial use could be established.

This property abuts the City of Moorhead along 46<sup>th</sup> Avenue S. A commercial use in this area does not conform to the City's 2009 Future Land Use Map (FLU) or Growth Area Plan (GAP). These documents guide the future development of this property and surrounding properties toward low density residential development similar to that which is located south of 46<sup>th</sup> Avenue S and west of State Hwy 75 (See memo from City).

The UED zoning district was intended to provide some degree of protection to the incorporated communities from uses proposed at or near their municipal boundaries. In particular it was directed toward close-in residential uses in unsewered areas and development with large lot sizes but this request is another example as to why the zone exists.

The Clay County Comprehensive Plan says that the County should work closely and cooperatively with communities, especially in their Future Growth Areas. This ensures that development taking place adjacent to or near the City's boundaries doesn't have a negative impact on the community's orderly growth. This proposed rezoning and future use is not consistent with the intent of Clay County's Zoning Ordinance or provisions of the Comprehensive Plan. Nor is it consistent with the City of Moorhead's 2009 Future Land Use Map (FLU) or Growth Area Plan (GAP). For those reasons staff recommends denial of the rezoning request.

Any decision reached by the Planning Commission related to this rezoning request will be forwarded, as a recommendation, to the Clay County Board of Commissioners for a final action.

## ATTACHMENTS

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1. Title 8, Chapter 4, Section 8-4-6D of the Clay County Code
2. General Location Map
3. Application and Site Plan submitted by the applicant

If you have any questions regarding this matter, feel free to contact me at 299-7330 or [tim.magnusson@co.clay.mn.us](mailto:tim.magnusson@co.clay.mn.us).



# Clay County Planning Commission Report

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## ATTACHMENT 1 – Criteria for Consideration – Zoning Change Request

### Title 8, Chapter 4, Section 8-4-6D: Criteria and General Review Standards:

#### D. Criteria and General Review Standards for Granting Zoning District Amendments:

1. **Effect of Proposed Use:** In granting a zoning district amendment, the Planning Commission shall consider the effect of the proposed use upon the health, safety, morals and general welfare of occupants of surrounding lands, existing and anticipated traffic conditions on adjacent streets and land, and the effect on agricultural usage in the surrounding area.
2. **Additional Findings:** In addition, the Planning Commission shall make the following findings, among others, where applicable:
  - a. **Burden on Public Utilities:** The development authorized by the rezoning will not create an excessive burden on any public facilities or utilities which serve or are proposed to serve the area.
  - b. **Related to Overall Needs:** The rezoning is reasonably related to the overall needs of the County and to the existing land use.
  - ☒ **Consistency with Ordinance:** The rezoning is consistent with the purposes of this Ordinance and the purposes of the zoning district in which the applicant seeks classification.
  - ☒ **Conflict with Comprehensive Plan:** The rezoning is not in conflict with the comprehensive plans of any township or city of the County or the County Land Use Plan.
  - e. **Prematurely Stimulate Public Investment in Utilities:** The rezoning will not either individually or cumulatively stimulate prematurely, public investment in the facilities and utilities described in subsection D.2.a. of this Section.



# CLAY



C O U N T Y

IMPLEMENTATION



# IMPLEMENTATION

## CLAY COUNTY COMMUNITY-BASED COMPREHENSIVE PLAN

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In many ways, formal adoption of the Comprehensive Plan is the first step in the planning process, rather than the last, because it establishes the policy direction for the community, describing its objectives and methods to achieve them. Without continuing action to implement and update the Plan, County efforts will have little lasting impact.

To effectively implement the Comprehensive Plan, Clay County should:

- ▣ Review and revise several of its regulatory measures which can enforce the Plan's policies and recommendations, such as the Zoning Ordinance and subdivision regulations;
- ▣ Continue to utilize its Capital Improvements Program, implementing the most important public improvements on a priority system, while staying within budgetary constraints;
- ▣ Work with the cities and affected cities and townships to plan for the orderly development of the Planned Growth Areas;
- ▣ Actively involve local residents in ongoing planning discussions and decisions;
- ▣ Make continued public education efforts relating to the land use planning, sustainable development and other goals, policies and recommendations of this Plan;
- ▣ Continue ongoing planning dialogue among jurisdictions in the County as well as with surrounding jurisdictions and the State;
- ▣ Review and update the Plan itself as needed to reflect local aspirations and changing opportunities.

Each of these requirements is briefly discussed below.

### ZONING REGULATIONS

Zoning is a governmental unit's primary regulatory tool for implementing planning policies. It consists of the official zoning map and the supporting ordinance text. The official map divides the community into a series of zoning districts, and the text describes regulations for the use of land within these districts, including permitted uses, lot sizes, setbacks and density standards. It can also include design and property maintenance controls.

During the Comprehensive Plan implementation, the current zoning map should be compared to the adopted Future Land Use Plan map and text in order to clearly document valid discrepancies between the two. The second step will be to review, update and refine the zoning components of the County's Land Development Ordinance to implement and enforce the guidelines of the updated Comprehensive Plan. The County should begin the process of updating its Land



Development Ordinance immediately upon adoption of the Comprehensive Plan. The process should begin late 2002 and be adopted by early 2004. The County Planning Office will take the lead, with participation of the Planning Commission and Citizen Advisory Committee.

### SUBDIVISION REGULATIONS

Subdivision controls regulate the subdivision and development of land and the provision of public facilities within the community. Properly enforced subdivision regulations, coupled with zoning, can ensure proper physical development and adequate public facilities within growth areas. They normally prescribe standards for street improvements, lot setbacks and layouts, and sewer facilities. Subdivision regulations can also ensure that the costs of public improvements within growth areas are borne by the developers and the new residents as appropriate rather than by the established community. Clay County's subdivision regulations contained in its Land Development Ordinance should be reviewed against the recommendations of the new Comprehensive Plan, and revised and modified if necessary.

### CAPITAL IMPROVEMENT PLAN

Another potential tool for implementation is the Capital Improvement Program, which establishes schedules and priorities typically within a five-year period. The County first prepares a list of all public improvements that will be required in the next five years, including transportation and community facilities projects. Once all projects are reviewed, priorities are assigned, cost estimates prepared, and potential funding sources identified. The County can determine which projects should be financed through annual tax receipts, which require public borrowing, and which may be eligible for outside sources of assistance.

The Capital Improvement Program allows the County to provide the most critical public improvements, yet stay within budget constraints. Some of the elements outlined in this Comprehensive Plan can be articulated in a Capital Improvements Program (CIP), particularly the planned roadway improvements identified in the Inventory and analysis chapter.

The County should continue to maintain a Capital Improvements Program that includes elements of the Comprehensive Plan. Priorities may include an adequate transportation system in the growing areas of the community and adequate and up-to-date County buildings.

### PLANNED GROWTH AREAS & ANNEXATION

Several of the cities in Clay County anticipate further residential, commercial and industrial development and, in order to accommodate that growth, have designated areas outside of their current city limits as "Planned Growth Areas". For the most part, land use plans and policies have already been established for these areas either within the adjacent city's Comprehensive Plan, through joint planning agreements between cities and townships, or through orderly annexation agreements. Where this is not the case, cities should work cooperatively with the



County and surrounding township to plan the land uses for these additional areas. Even where land uses are already identified for the Planned Growth Areas, cities, townships and the County will have to continue to work cooperatively to manage growth and development in these areas and to prevent premature development so that adequate streets, infrastructure and services can be provided in a cost effective manner. The two most useful means to do this are through joint powers agreements and/or orderly annexation agreements.

To ensure that inefficient and difficult-to-serve land use patterns do not develop in the Planned Growth Areas, they should be zoned with a residential general density of 1 unit per 20 acres. New commercial and industrial development should be consistent with the land use plan of the adjacent city as shown in Figures 4-3 through 4-6 and/or in local city comprehensive plans. Properties within the Planned Growth Areas should be annexed into the adjacent city when urban development is imminent and sewer, water and other urban services can be provided in an orderly, efficient, cost effective manner.

Annexation agreements of urban expansion areas should be pursued and hopefully put into place by 2005. This process will be lead by the individual communities and townships.

## CITIZEN INVOLVEMENT

This Plan was built upon a strong foundation of citizen involvement. Citizens should be involved not only in the local planning efforts undertaken to implement this Plan, but in future updates to this Plan as well. This Plan will affect everyone in the County, and everyone should have the opportunity to contribute to its future planning decisions.

To ensure active, ongoing citizen involvement, a Citizen's Advisory Board (CAB) should be established and charged with managing the Plan's progress, particularly with respect to the established Goals and Policies. The CAB would be "keepers of the vision" by having the responsibility for monitoring and informing the County of the implementation progress and ongoing challenges facing the Plan. The CAB should develop, in coordination with and approval of the County, a system to measure the Plan's success. The CAB should be composed of a mix of individuals appointed by the County Board who are representative of major stakeholders within the County similar to the composition making up the Planning Task Force for the development of this Plan. The CAB should be established immediately after the adoption of this Plan in order to be involved in the Zoning Ordinance update and other implementation measures. The CAB should undertake its first review of the Plan's implementation 3 – 5 years after its adoption. The County Planning Office will maintain and coordinate CAB functions under the direction of the County Board.



## EAGLE RIDGE DEVELOPMENT

April 13, 2015

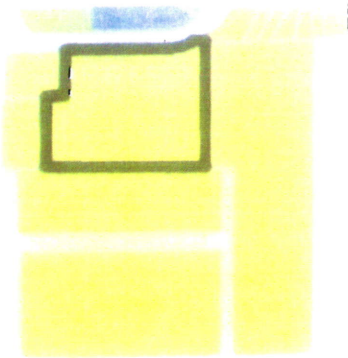
DRB LLC – PETITION FOR REZONING – Opposition Letter

Tim,

As the owner and developer of the property immediately north of the property in question, we are opposed to the proposed rezoning. The proposed use does not conform to the future land use plan for the City of Moorhead.

46<sup>th</sup> Avenue South is the gateway into our development and we feel the subject property should develop in a manner consistent with the adjacent properties.

Below is the Future Land Use Map for this property.



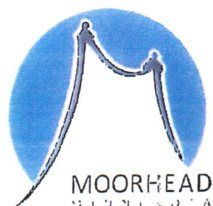
Thank you for your consideration. Please let me know if you have any questions or comments.

Sincerely,

Jonathan Youness  
Eagle Ridge Development

701-306-0799





**To:** Chair Krabbenhoft and Members of the Clay County Planning Commission  
**Subject:** Request to Remove Urban Expansion District-4532 Hwy 75 S/21.029.4201  
**Date:** April 14, 2015  
**Prepared By:** Kristie Leshovsky, Moorhead City Planner & Zoning Administrator

## MEMORANDUM

### BACKGROUND

The above noted property abuts the municipal boundary of the City of Moorhead. For many decades, the City has utilized Comprehensive Plans, Growth Area Plans and Infrastructure Master Plans for guiding the growth and development of Moorhead. A Comprehensive Plan helps to ensure that development occurs in a manner desired by the community rather than simply as a result of market trends and patterns. Growth Area Plans provide more detailed plans for growth. Infrastructure Master Plans facilitate fiscally responsible extension of City services to new development areas.

Between 2004 and 2009, there were over 2,200 housing units constructed in Moorhead and, as a result of that substantial growth, an Addendum of the 2004 Comprehensive Plan/Growth Area Plan was undertaken to assess and update growth and development for the next 25 years. The 2004 City of Moorhead Comprehensive Plan/Growth Area Plan and related 2009 Comprehensive Plan/Growth Area Plan Addendum are the foundation upon which the City bases regulations and standards, such as zoning and subdivision ordinances as well as capital improvement plans.

The process and participation in Comprehensive Planning is as important as the final document and includes workshops, public forums, and meetings with stakeholders and land owners. For example, participation tools utilized during the 2009 Addendum to the Comprehensive Plan included:

- Multiple neighborhood meetings
- Landowner and developer forums
- Agency/government forums (including Clay County)
- Town Hall and Community meetings
- Surveys

### CITY OF MOORHEAD – FUTURE LAND USE MAP, GROWTH AREA PLANS AND GATEWAY OVERLAY

#### **2004 Comprehensive Plan Future Land Use Map (FLU) and Growth Area Plan (GAP):**

- o This property was not included within the 2004 FLU or GAP.

#### **2009 Addendum to the 2004 Comprehensive Plan FLU and GAP:**

- o This property was included within the 2009 FLU and GAP.
- o The area south of 46<sup>th</sup> Avenue and east of Highway 75 was guided in the FLU and GAP towards low density residential development, essentially mirroring the west side of Highway 75.

#### **City of Moorhead Gateway Overlay District:**

- o The City established the Gateway Overlay District in 2006 as recommended by the 2004 Comprehensive Plan, which requires higher standards for building construction and landscaping for properties within City limits and within 300' of established gateways, which includes Highway 75 South.



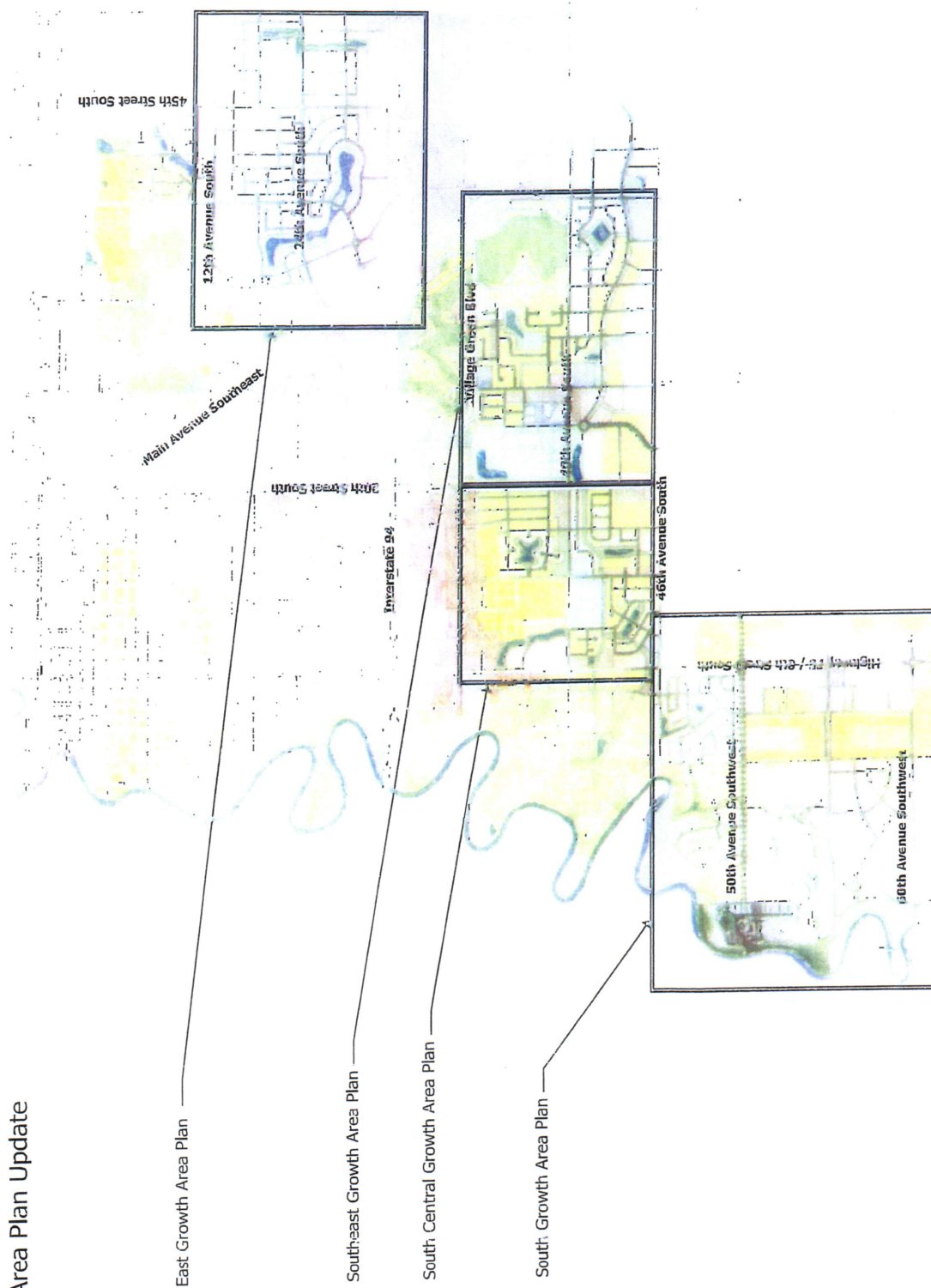
## ATTACHMENTS

- ❖ 2009 Growth Area Plan
- ❖ 2009 Future Land Use Map
- ❖ Municipal Water Service Areas
- ❖ Sanitary Sewer Service Areas



# 2009 Growth Area Plan

Figure 12: Growth Area Plan Update  
Location Map





Future Land Use Map  
South Growth Area

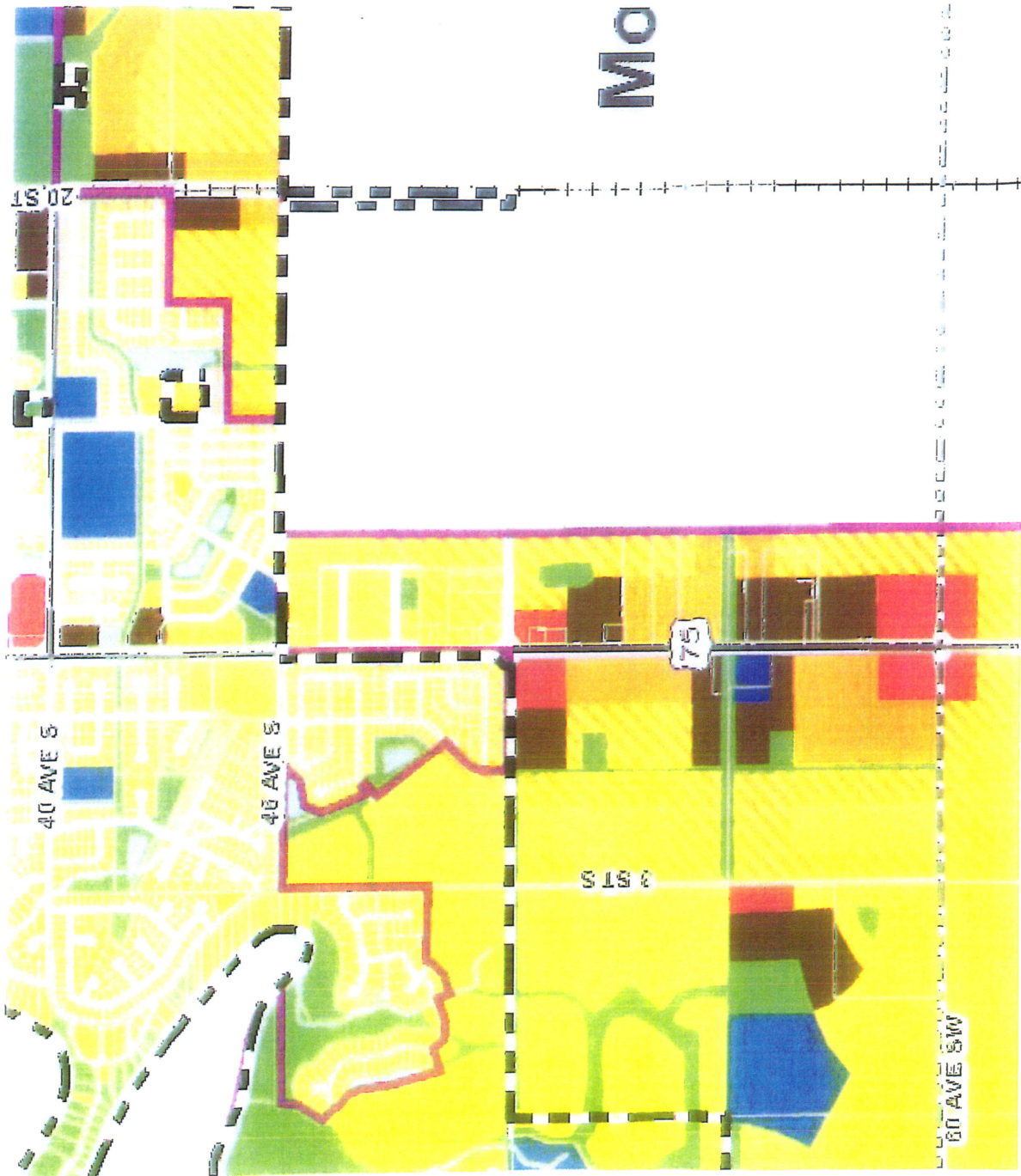
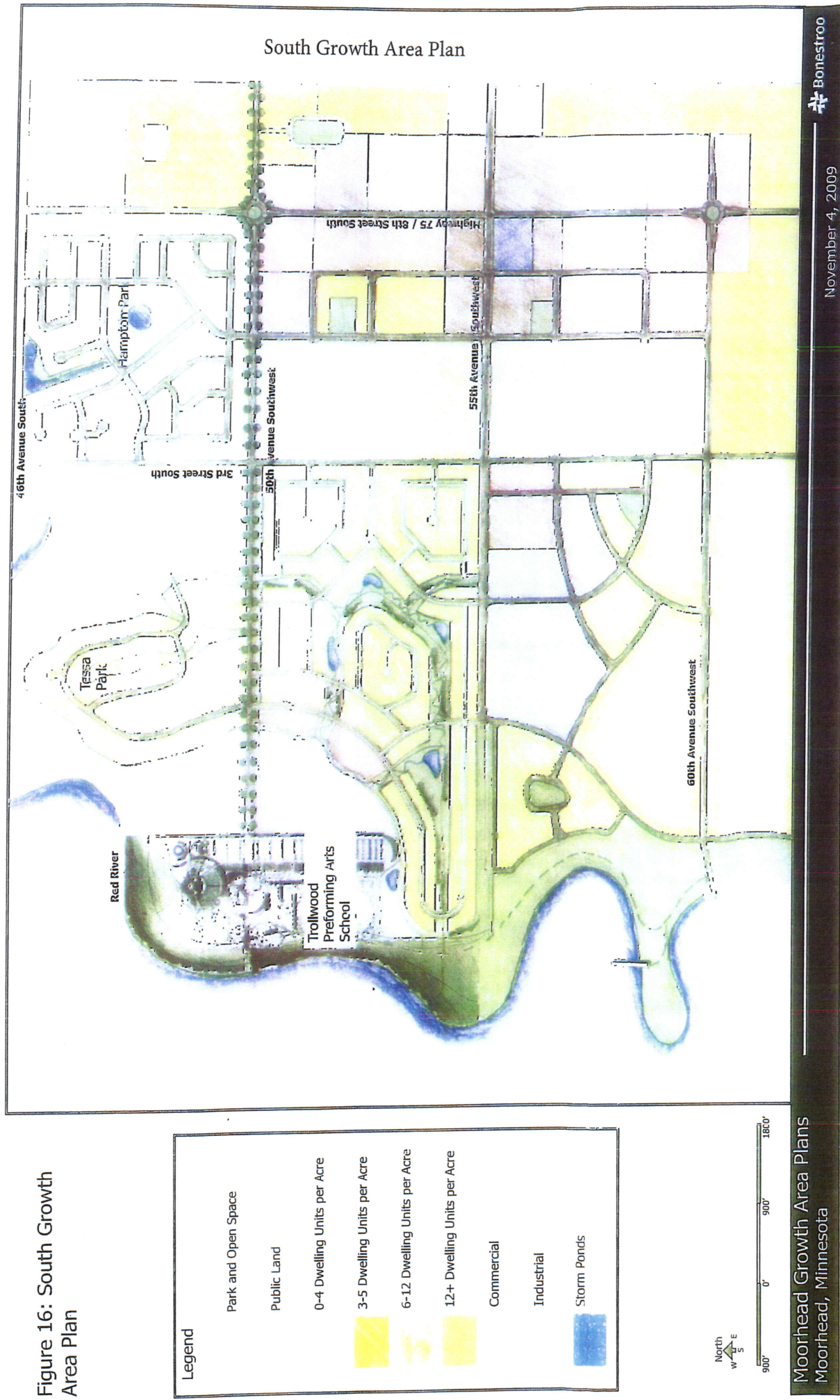




Figure 16: South Growth Area Plan

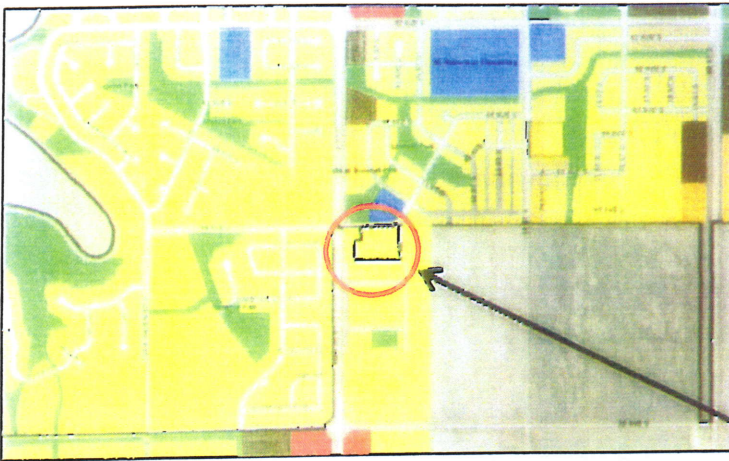




## MUNICIPAL UTILITY SERVICE AREA

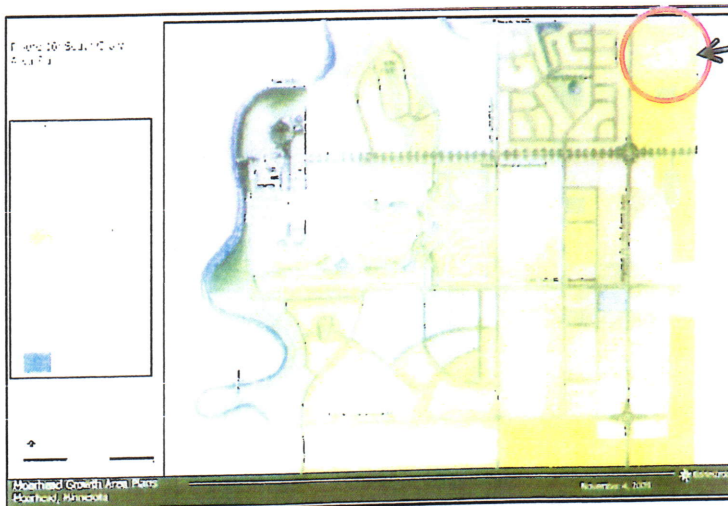
The area south of 46<sup>th</sup> Avenue and east of Highway 75 is outside of the water and sewer utility service territories. The Moorhead Engineering Department is currently undertaking a sanitary sewer study to analyze existing capacity and future expansion options. Without a significant investment, it is anticipated that sanitary sewer service capacity will not be available for this area for ten or more years. The current study will provide a better estimate of the timing for this extension.

Although properties within the County which are near City limits may appear attractive for development because of little or no special assessment costs relating to utilities and infrastructure, from a land use perspective development of these areas, whether consistent or not consistent with long range community plans, is discouraged because of reliance on non-municipal utility services. Premature development can ultimately make future extension of services more challenging and costly; with all of those costs ultimately borne by the development via special assessments.



*2009 Future Land Use Map*

Area south of 46<sup>th</sup> Avenue and East of Highway 75

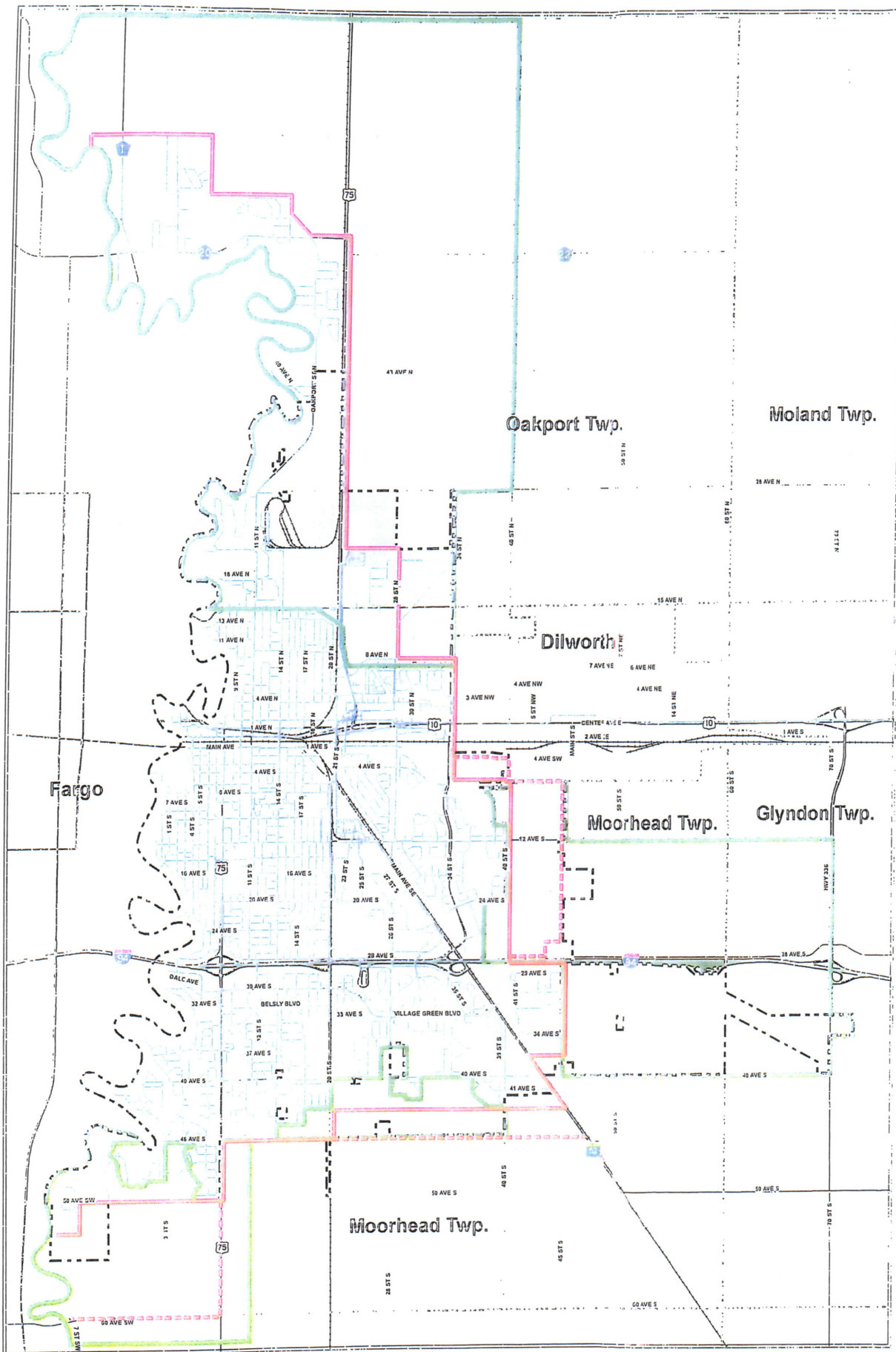


*2009 South Growth Area Plan*









**Municipal Water Service Areas**  
 2009 Comprehensive Plan Addendum  
 City of Moorhead, Minnesota

- Moorhead City Boundary
- Growth Area Boundaries
- Other Municipal Boundary
- Open Water
- Current MPS Service Territory
- Future MPS Service Territory
- Water Main

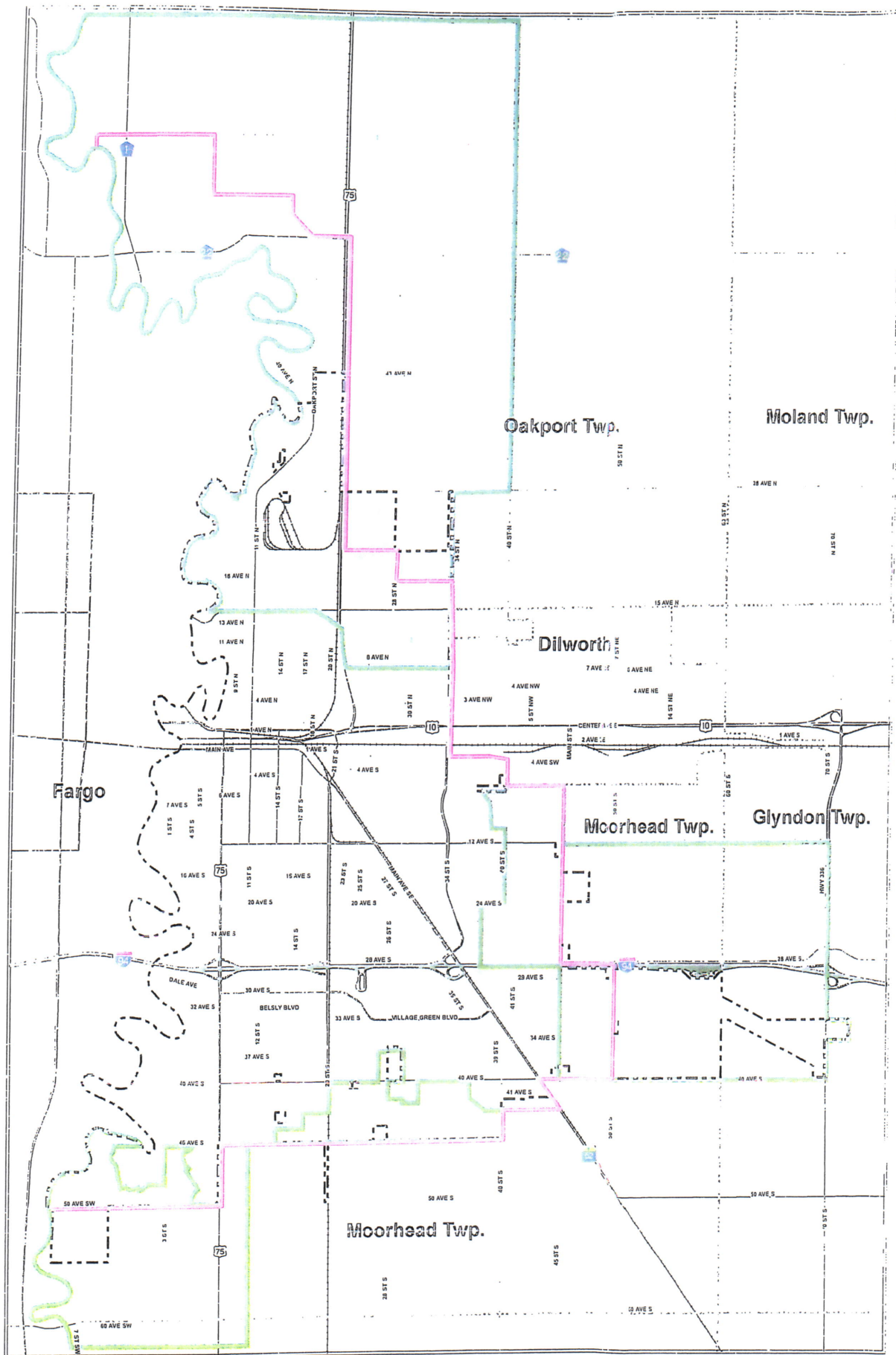
Figure 25

2,000 0 2,000 4,000 Feet

October 12, 2009  
**Bonestroo**

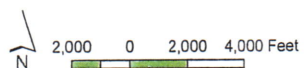
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# Sanitary Sewer Service Areas

2009 Comprehensive Plan Addendum  
City of Moorhead, Minnesota



- Moorhead City Boundary
- Growth Area Boundaries
- Other Municipal Boundary
- Open Water
- Current Sanitary Service Territory

Figure 26

October 12, 2009  
 Bonestroo

K:\2261\226108001\GIS\Maps\sanitary service.mxd





Manfred R. Ohnstad 1914 - 1987  
Bradley J. Burgum 1952 - 2010  
Daniel R. Twichell 1927 - 2013  
Brian D. Neugebauer 1951 - 2014

July 2, 2015

RECEIVED

JUL 07 2015

Lukas D. Andrud\*  
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Susan L. Ellison\*  
Sean M. Fredricks\*  
Jacob L. Geiermann\*  
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Erin F. Musland  
Michael D. Nelson\*  
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Michel W. Stefanowicz  
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Clay County Board of Commissioners  
Clay County Courthouse  
807 11<sup>th</sup> Street North  
Moorhead, MN 56560

**Re: Objections to Application to Rezone Parcel 21.029.4201**

Dear Commissioners:

I am the City Attorney for the City of Moorhead, Minnesota. It has come to the City's attention that you will be considering an application to rezone the above-referenced parcel, which abuts the City's jurisdictional limits, at your July 7, 2015, meeting. It is my understanding that the proposed rezoning would remove the Urban Expansion District (UED) zoning on the parcel in order to allow construction of approximately 100 self-service storage units. Eagle Ridge Development, which is an abutting landowner to the above parcel, joins the City in objecting to the proposed rezoning and we urge you to deny the rezoning request for the following reasons:

1. **Spot Zoning.** If the County removes the UED zoning for this one parcel, the County will be engaging in "spot zoning," a zoning practice that is illegal in the State of Minnesota. Spot zoning usually involves the rezoning of a small parcel of land in a manner that (1) is unsupported by any rational basis relating to promoting public welfare; (2) establishes a use clarification inconsistent with surrounding uses and creates an island of nonconforming use within a larger zoned district; and (3) dramatically reduces the value for uses specified in the zoning ordinance of either the rezoned plot or abutting property. *See State, by Rochester Ass'n of Neighborhoods v. City of Rochester*, 268 N.W.2d 885 (Minn. 1978). Here, the proposed rezoning of one parcel in a manner that is inconsistent with the surrounding area and the comprehensive plans of the community would constitute spot zoning and therefore violate Minnesota law.
2. **Violation of UED Goals.** The goal of the County's UED zone, as outlined in Section 8-5F-1 of the Clay County Development Code, is to establish a comprehensive growth management strategy for Clay County that promotes orderly and efficient growth of residential, commercial and industrial development while preserving the County's rural character by: (1) working with cities and townships within Clay County to identify planned urban growth areas that have the potential to be served with an

Peggy J. Buchholz, CLM, PLS  
Office Manager

\*Also licensed in Minnesota



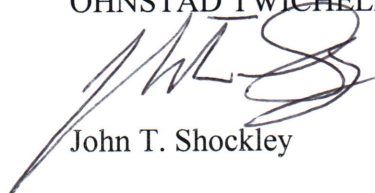
appropriate range of public services in a cost effective manner within which efficient and orderly growth can be facilitated over the next 20 years; and (2) discourage development from occurring at unsewered urban densities outside of cities until urban services can be provided in an orderly and efficient manner. The County has not worked with the City in this case to ensure an appropriate range of public services for development of the above-referenced parcel, which lies within a UED zone. The above-referenced parcel is not serviced by City water services, sanitary sewer, or storm sewer (note that stormwater retention with adequate discharge location is required for the property, because the applicant intends to add more than one acre of impervious surface). Furthermore, the rezoning application indicates that the proposed storage units on the property would be accessed through 46<sup>th</sup> Avenue South - a City roadway. The above-referenced parcel was not assessed costs for construction of this City roadway, and there is no proposed long-term access management or roadway plan for this area. The City urges you to consider that premature, unplanned development can ultimately make future extension of services and road access more challenging and costly.

3. **Inconsistent Uses.** Rezoning applications require a thorough review and consideration of all the uses permitted within the new zoning district proposed for the property. If the above-referenced parcel is rezoned and the UED zoning removed, the following uses would be permitted on the parcel: (1) commercial agriculture; (2) automobile and truck service facilities, including sleeping facilities for trucks; (3) auto, truck, trailer, garden and farm equipment sales; (4) bar, cocktail lounge, dance hall, nightclub; (5) bowling alley, pool hall, billiard parlor; (6) building material sales yard; (7) motor fuel station; (8) wholesale business and warehousing; (9) parking and loading areas; and (10) travel trailers and travel vehicles. The applicant in this case has indicated that approximately one-third of the parcel will house storage buildings, although the County would not be able to dictate a specific use of the parcel and any of the uses listed above would become permitted uses of the parcel. These uses are inconsistent with the surrounding area and the Comprehensive Plans, Growth Area Plans, and Infrastructure Master Plans created by the City (with input and participation from the County) to ensure that development in this area occurs in a manner desired by the community.

We urge you to deny the rezoning application for the above-referenced parcel because, as explained above, rezoning said parcel to eliminate the UED zoning would constitute illegal spot zoning, violate the purposes of the UED zoning, and permit uses of the property that are inconsistent with the surrounding area and the plans achieved by the City and County. Please be advised that, in the event you decide to grant the rezoning request for the above-referenced parcel, the City has authorized my office to move forward with a formal appeal to the district court challenging your rezoning decision, as provided in Section 8-4-2 of your Development Code and Minnesota law. We sincerely hope such legal proceedings can be avoided in this matter.

Sincerely yours,

OHNSTAD TWICHELL, P.C.



John T. Shockley